REMARKS

The Examiner rejected claims 1-3. Applicants have amended claims 1-3. Claims 1-3 are now pending.

Regarding the previous amendments to the Abstract and claim 3, Applicants respectfully acknowledge the Examiner's entrance of the non-compliant amendments.

The Examiner rejected claims 1-3 pursuant to 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have amended claims 1-3 to clarify the invention, and therefore respectfully request withdrawal of the rejection.

The Examiner also rejected claims 1-3 pursuant to 35 U.S.C. § 102(b) as being anticipated by Eggers (U.S. 5,630,426). Applicants traverse the rejection for the following reasons.

As discussed in Applicant's previous Amendment, Eggers relates to a device and a method for carrying out an in-situ characterization of tissues, wherein malignant tissue and benign tissue are distinguished based on the measured properties of the tissue. In a preferred embodiment, the characterization of the tissue is carried out by measuring the electrical properties of the tissue, e.g., the electrical impedance. Specifically, Eggers uses the measurable differences of one or more electromagnetic properties (for example, electrical impedance) of the normal or malignant tissue for in-situ discrimination and assessment of the degree of malignancy and the resulting decision for treatment. The actual treatment of the malignant tissue is carried out by inducing cauterization through heating the tissue.

Amended claim 1, however, requires "identifying any pathologically changed tissue parts in the area of body tissue by identifying those tissue parts that provide no stimulus response or an unexpected stimulus response, *wherein the response identified is distinct from the properties of the body tissue being stimulated* ...." This understanding of stimulus responses is supported and described by the original application. For example, the specification provides the following discussion of stimulus responses:

The following changes or influences can be used, for example, to evaluate the

> stimulus signals sent to the tissue: changes in the EKG [response of heart] or EGG [response of stomach muscles]; affect on sight, hearing or speech; muscular tremors; movements of extremities or body parts; affect on equilibrium; changes in cardiovascular system, e.g. changes in heart rate or fibrillation; and affect on memory, logical thought or motor skills.

(Paragraph 19 of Publication.) These examples illustrate how the claimed invention requires stimuli to cause a response distinct from the properties of the body tissue being stimulated.

Eggers does not disclose that the response identified is distinct from the properties of the body tissue being stimulated. Rather, Eggers identifies a malignant tissue part by identifying a tissue part having a certain electromagnetic property, such as a certain electrical impedance.

More generally, Eggers does not identify a stimulus response. As discussed above, a stimulus response is a type identifiable bodily reaction. Eggers, on the other hand, simply measures a tissue's electrical properties. Such a measurement is not the identification of a stimulus response.

For these reasons, Eggers does not disclose all the limitations of claim 1, and therefore Eggers does not anticipate claim 1 or dependent claims 2 or 3. Accordingly, Applicants request withdrawal of the rejection.

Based on the foregoing, it is believed that claims 1-3 are in condition for allowance. Accordingly, Applicants respectfully request that claims 1-3 be allowed and that the application be passed promptly to issue.

Respectfully submitted,

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